IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1726 OF 2005

Suryakant Manikrao Raut ..Appellant

versus

Madhukar F. Salunke ..Respondent

M. P. S. Dani for the Appellant.

CORAM : D. G. DESHPANDE,J.

DATE : 12TH SEPTEMBER,2005

ORAL ORDER :

1. Heard learned advocate for the Appellant. Appellant is the owner of the property and the defendant in the suit. Suit for specific performance came to be filed against him. That was decreed by the trial court, hence this appeal.

2. Counsel for the appellant contended that the court did not frame issue whether in the circumstances the plaintiff was entitled for relief of specific performance. In fact all the circumstances are part of the entire case of the plaintiff where each and every aspect of the matter is considered, whether there is a written agreement between the parties and the agreement is proved, receipt of amount of consideration by the appellant

pursuant to the said agreement, is also proved. Then the court was fully justified in decreeing the relief in favour of the plaintiff.

3. It was tried to be urged by Mr. Dani that earlier the relationship between the appellant and the respondent was of owner and licensee but that relationship gets converted into a different relationship by virtue of the Agreement of Sale. There is no merit in this appeal. The same is dismissed along with Civil Application No. 4009 of 2005.

12.9.2005 (D.G. DESHPANDE, J.)